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COMMITTEE ON ECONOMIC SOCIAL
AND CULTURAL RIGHTS
Twenty-sixth (extraordinary) session
13-31 August 2001

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

JAPAN

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of Japan on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.21) at its 42nd and 43rd meetings (E/C.12/2001/SR.42 and 43), held on 21 August 2001, and adopted, at its 56th meeting (E/C.12/2001/SR.56), held on 30 August 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the second periodic report of the State party, which was in general conformity with the Committee's guidelines. The Committee welcomes the open and constructive dialogue with the delegation, which consisted of experts on the issues relevant to the Covenant, and its willingness to answer the questions posed by the Committee.

B. Positive aspects

3. The Committee notes that the State party ranks as one of the most developed countries in the world (ninth on the UNDP Human Development Index ranking), with the world's second-largest economy, and that it has achieved high levels of enjoyment of economic, social and cultural rights for the majority of its citizens.

4. The Committee also notes that the State party is the world's largest donor in absolute figures, allocating 0.27 per cent of its GNP to official development assistance (ODA), of which 40 per cent is devoted to areas related to the rights contained in the Covenant.

5. The Committee recognizes the significant role of the State party in promoting international cooperation for the promotion of economic, social and cultural rights in the context of international forums, such as the United Nations and the Organization for Economic Cooperation and Development.

6. The Committee notes with appreciation that the State party has begun to involve national non-governmental organizations in the preparation of its report to the Committee.

7. The Committee takes note that the State party is taking measures to promote gender equality, and in 2000 formulated a Basic Plan for Gender Equality.

8. The Committee welcomes the State party's recent measures aimed at improving the protection of women and children against violence: the Law for Punishing Acts Related to Child Prostitution and Child Pornography and for Protecting Children (1999), the Law on Prohibition of Stalking Behaviour and Assisting Victims (2000) the Child Abuse Prevention Law (2000) and the Law on the Prevention of Spousal Violence and the Protection of Victims (2001). The Committee also welcomes the amendments to the Criminal Procedure Act to protect victims of child abuse and sexual offences during legal proceedings (2001), and the formulation of a Plan of Action against Commercial Sexual Exploitation of Children (2001).

9. The Committee takes note of the fact that the State party has made considerable efforts to cope with the aftermath of the great Hanshin-Awaji earthquake in 1995, and that the national, regional and local authorities have reacted quickly to create temporary, as well as permanent housing for the vast number of persons affected.

C. Principal subjects of concern

10. The Committee is concerned that the State party does not give effect to the provisions of the Covenant in domestic law in a satisfactory manner, despite the fact that many of its provisions are reflected in the Constitution. The Committee is also concerned that provisions of the Covenant are not sufficiently taken into account in the process of legislation and policy formulation, and are rarely mentioned in legislative or administrative proposals or in parliamentary debates. The Committee further expresses concern about the fact that judicial decisions generally do not make reference to the Covenant, on the mistaken ground that none of its provisions has direct effect. It is a further matter of concern that the State party endorses that position, thereby contravening its obligations under the Covenant.

11. The Committee is particularly concerned that the State party has no intention of withdrawing its reservations to articles 7 (d), 8 (2) and 13 (2) (b) and (c), of the Covenant, based on the argument that the State party has to a large extent already achieved realization of the rights enshrined in the aforementioned articles, whereas information received by the Committee reveals that full realization of those rights is not yet guaranteed.

12. The Committee expresses its concern that the State party interprets the principle of non-discrimination as being subject to progressive realization and to "reasonable" or "rationally justifiable" exceptions.

13. The Committee is concerned about the persisting de jure and de facto discrimination against minority groups in Japanese society, and in particular against the Buraku and Okinawa communities, the indigenous Ainu people and people of Korean descent, especially in the fields of employment, housing and education.

14. The Committee is also concerned about the persisting legal, social and institutional discrimination against children born out of wedlock, in particular as regards the curtailment of their inheritance and nationality rights.

15. The Committee expresses its concern about widespread discrimination against women and the de facto inequality that still exists between men and women in Japanese society in professional and decision-making positions, both in political representative bodies, public services and administration, and in the private sector.

16. The Committee expresses its concern regarding the persistent cases of domestic violence, sexual harassment and sexual exploitation of children, in spite of domestic legislation adopted in 2001.

17. The Committee is also concerned about the continuing de facto inequality in wages between men and women for work of equal value, and in particular about the persisting practice in many enterprises of employing women primarily in the clerical services, with little or no chance of promotion to the professional ranks. These inequalities persist despite legislative, administrative and other measures taken by the State party, such as the 1997 amendment to the Equal Employment Opportunity Law.

18. The Committee is concerned that the State party has not ratified certain significant ILO conventions, such as the Abolition of Forced Labour Convention, 1957 (No. 105), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

19. The Committee expresses its grave concern that the State party permits excessive working hours in both the public and private sectors.

20. The Committee expresses its concern that from the age of 45 workers run a greater risk of having their salaries reduced or even being laid off without adequate compensation.

21. The Committee is concerned about the general prohibition of strikes for all public employees and civil servants, even those not working in essential governmental services, including teachers. This contravenes article 8 (2) of the Covenant (to which the State party has made a reservation), and the ILO Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organize, despite the existence of alternative systems of personnel committees.

22. The Committee is concerned about reported incidents in nuclear power stations and the lack of transparency and disclosure of necessary information regarding the safety of such installations, and also the lack of advance nationwide and community preparation for the prevention and handling of nuclear accidents.

23. The Committee is also concerned about the consequences of the recent changes to the public pension system, which involved a gradual increase in the age of eligibility from 60 to 65 years. If the retirement age and the age for eligibility for public pension benefits do not coincide, there may be a loss of income for those who are obliged to retire before the age of 65.

24. The Committee is further concerned about the absence of a minimum pension and the persistent de facto gender inequality in the pension system which perpetuates the income gap between men and women.

25. The Committee notes with concern that discrimination against persons with disabilities continues to exist in law and practice, particularly in relation to labour and social security rights.

26. The Committee expresses its concern that the compensation offered to wartime "comfort women" by the Asian Women's Fund, which is primarily financed through private funding, has not been deemed an acceptable measure by the women concerned.

27. The Committee is concerned that despite large resettlement programmes planned and executed by Hyogo Prefecture in the aftermath of the great Hanshin-Awaji earthquake, the population most affected has not always been consulted adequately, and as a consequence many single older persons now live in environments totally unfamiliar to them with little or no personal attention. Apparently, little or no psychiatric or psychological treatment is being offered for people who have lost their families. Many resettled earthquake victims who are over 60 years of age lack community centres, access to health centres and outpatient nursing.

28. The Committee notes with concern that the poorer sections of the population in the Hanshin-Awaji areas affected by the earthquake are finding it increasingly difficult to finance their building reconstruction. Some were forced to sell their property in order to pay off their existing mortgages without being able to rebuild their houses.

29. The Committee is concerned about the large number of homeless persons throughout the country, especially in the Osaka/Kamagasaki area. The Committee is further concerned that the State party has no comprehensive plan to combat homelessness.

30. The Committee is also concerned about forced evictions, especially of the homeless from their temporary abode and those who have occupied houses for a long time in the Utoro district. In this regard, the Committee is particularly concerned about the summary procedure whereby provisional eviction orders are granted by the courts without any reasons being given, under the Court Order of Provisional Disposition Procedure, without being subject to a stay of execution, thus rendering any right of appeal meaningless and in effect transforming provisional eviction orders into permanent ones, in breach of the guidelines of the Committee established in its general comments Nos. 4 and 7.

31. The Committee is concerned about the frequently excessively competitive and stressful nature of all levels of education, which results in school absence, illness, and even suicide by students.

32. The Committee expresses its concern about the fact that there are very limited possibilities for children of minorities to enjoy education in their own language and about their own culture in public schools. The Committee is also concerned about the fact that minority schools, such as Korean schools, are not officially recognized, even when they adhere to the national education curriculum, and therefore neither receive central government subsidies nor are able to provide qualification for university entrance examinations.

E. Suggestions and recommendations

33. The Committee urges the State party to review its position towards its legal obligations arising under the Covenant and that its provisions be interpreted as being directly applicable in practice, as outlined in the Committee's general comments, including general comments Nos. 13 and 14, at least in relation to the core obligations. The State party is further encouraged to introduce "human rights impact assessments", comparable to environmental impact assessments, and other measures to ensure that the provisions of the Covenant are taken into consideration in legislative and administrative policy and decision-making processes.

34. The Committee urges the State party to consider the withdrawal of its reservations to articles 7 (d), 8 (2) and 13 (2) (b) and (c) of the Covenant.

35. The Committee also recommends that the State party improve teaching and training programmes on human rights for judges, prosecutors and lawyers in order to enhance knowledge, awareness and application of the Covenant.

36. While appreciative of the measures undertaken by the State party to promote and protect economic, social and cultural rights, the Committee urges the State party to adopt, through an open and consultative process, a comprehensive national plan of action, in accordance with Part II, paragraph 71, of the Vienna Declaration and Programme of Action. The Committee requests the State party to annex a copy of its national plan of action to its third periodic report, and to explain how the plan promotes and protects economic, social and cultural rights.

37. The Committee urges the State party to increase its efforts to provide international assistance to developing countries and to establish a time frame within which the internationally accepted goal of 0.7 per cent of GNP set by the United Nations will be achieved. The Committee also encourages the State party, as a member of international financial institutions, in particular the International Monetary Fund and the World Bank, to do all it can to ensure that the policies and decisions of those organizations are in conformity with the obligations of States parties to the Covenant, in particular the obligations contained in articles 2 (1), 11, 15, 22 and 23 concerning international assistance and cooperation.

38. The Committee welcomes the State party's indication that it proposes to establish a national human rights institution and urges the State party to do so as soon as possible and in accordance with the 1991 Paris Principles and the Committee's general comment No. 10.

39. The Committee requests the State party to take note of its position that the principle of non-discrimination, as laid down in article 2 (2) of the Covenant, is an absolute principle and can be subject to no exception, unless the distinction is based on objective criteria. The Committee strongly recommends that the State party strengthen its non-discrimination legislation accordingly.

40. While noting that the State party is currently in the process of consultations with Koreans living in the Utoro area regarding their unresolved situation, the Committee recommends that the State party continue to undertake necessary measures to combat patterns of de jure and de facto discrimination against all minority groups in Japanese society, including the Buraku people, the people of Okinawa and the indigenous Ainu, particularly in the fields of employment, housing and education.

41. The Committee urges the State party to remove the concept of "illegitimate children", which is unacceptable in a modern society, from legislation and practice, urgently to take legislative and administrative measures to eliminate all forms of discrimination against children born out of wedlock, and further to restore the Covenant rights of persons so affected (arts. 2 (2) and 10).

42. The Committee urges the State party to implement more vigorously existing legislation and to adopt new legislation with an appropriate gender perspective, with a view to ensuring greater equality of men and women, especially in the fields of employment, labour conditions, wages and representation in higher positions in political representative bodies, public services and administration.

43. The Committee recommends that the State party provide detailed information and statistical data on cases of domestic violence, sexual harassment and sexual exploitation of children. The Committee also recommends that the State party apply strictly its domestic legislation and implement effective sanctions to the persons responsible for such crimes.

44. The Committee strongly recommends that the State party continue to address the issue of de facto inequality between men and women regarding wages for work of equal value by more actively implementing existing legislation, such as the Equal Employment Opportunity Law, and relevant administrative and other programmes and policies, such as the guidelines concerning employment management differentiated by career track, as referred to by the ILO, and by adopting appropriate new measures to that effect.

45. The Committee encourages the State party to consider ratifying ILO Conventions Nos. 105, 111 and 169.

46. The Committee recommends that the State party adopt the necessary legislative and administrative measures to reduce working hours in both public and private sectors.

47. The Committee recommends that the State party take measures to ensure that workers over the age of 45 years maintain their previous levels of wages and job security.

48. The Committee recommends, in line with the ILO, that the State party ensure the right of civil servants and public employees not working in essential services to organize strikes.

49. The Committee recommends increased transparency and disclosure to the population concerned of all necessary information, on issues relating to the safety of nuclear power installations, and further urges the State party to step up its preparation of plans for the prevention of, and early reaction to, nuclear accidents.

50. The Committee recommends that as the age of eligibility for the public pension system gradually increases from 60 to 65 years, the State party undertake measures to secure social security benefits for those retiring before the age of 65.

51. The Committee recommends that the State party incorporate a minimum pension into the national pension system. The Committee further recommends that the persisting de facto gender inequality in the pension system be remedied to the maximum possible extent.

52. The Committee recommends that the State party abolish discriminatory provisions in statutes and that it adopt a law against all kinds of discrimination relating to persons with disabilities. It further urges the State party to continue, and speed up, progress in enforcing the employment rate for persons with disabilities in the public sector that is provided in legislation.

53. The Committee strongly recommends that the State party find an appropriate arrangement, in consultation with the organizations representing the "comfort women", on ways and means to compensate the victims in a manner that will meet their expectations, before it is too late to do so.

54. The Committee recommends that the State party encourage Hyogo Prefecture to step up and expand its community services, in particular to older and disabled persons.

55. The Committee recommends that the State party, in line with its obligations under article 11 of the Covenant, speedily take effective measures to assist poorer earthquake victims in meeting their financial obligations to public housing funds or banks, undertaken to reconstruct their destroyed houses, in order to help them avoid having to sell their properties to meet continuing mortgage payments.

56. The Committee urges the State party to carry out an investigation, on its own and jointly with the prefectures, to assess the extent and causes of homelessness in Japan. The State party should also take adequate measures to ensure full application of the existing laws, such as the Livelihood Protection Law, ensuring an adequate standard of living for the homeless.

57. The Committee recommends that the State party take remedial action to ensure that all eviction orders, and in particular the Court Order of Provisional Disposition Procedure, conform to the guidelines of the Committee specified in general comments Nos. 4 and 7.

58. The Committee strongly recommends that the State party undertake a comprehensive review of the educational system, taking into consideration general comments Nos. 11 and 13 of

the Committee, as well as general comment No. 1 of the Committee on the Rights of the Child. The review should focus in particular on the frequently excessively competitive and stressful nature of all levels of education, which results in school absence, illness, and even suicide by students.

59. The Committee urges the State party to ensure that school textbooks and other teaching materials present issues in a fair and balanced manner which reflects the aims and objectives of education, as set out in article 13 (1) of the Covenant, the Committee's general comment No. 13 and general comment No. 1 of the Committee on the Rights of the Child.

60. The Committee strongly recommends that mother-tongue instruction be introduced in the official curricula of public schools enrolling a significant number of pupils belonging to linguistic minorities. The Committee further recommends that the State party officially recognize minority schools, in particular Korean schools, when they comply with the national education curriculum, and consequently make available to them subsidies and other financial assistance, and also recognize their school leaving certificates as university entrance examination qualifications.

61. The Committee requests the State party to provide more extensive information in its next periodic report on the following issues which could not be sufficiently dealt with in the dialogue: the rights of foreigners, including undocumented workers and apprentices, to just and favourable working conditions, social security and health services, and the rights of patients.

62. The Committee recommends that the State party disseminate its concluding observations widely among all levels of society and inform the Committee of all steps taken to implement them. It also encourages the State party to consult with non-governmental organizations and other members of civil society at an early stage in the preparation of the third periodic report.

63. Finally, the Committee requests the State party to submit its third periodic report by 30 June, 2006, and to include in that report detailed information on the steps undertaken to implement the recommendations contained in the present concluding observations.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

GERMANY

1. The Committee on Economic, Social and Cultural Rights considered the fourth periodic report of Germany on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/4/Add.3) at its 48th and 49th meetings (E/C.12/2001/48 and 49), held on 24 August 2001, and adopted, at its 58th meeting (E/C.12/2001/58), held on 31 August 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the third periodic report of the State party, which was prepared in general conformity with the Committee's guidelines.

3. The Committee notes with appreciation the high quality of the extensive written and oral replies given by the State party, as well as the open and constructive dialogue with the delegation, which included government officials with expertise in the subjects relevant in the context of the Covenant.

B. Positive aspects

4. The Committee recognizes that the State party is at present actively promoting economic, social and cultural rights both nationally and internationally. The Committee particularly welcomes recent positive developments concerning these rights, such as the consultation organized by the State party on the right to food in Bonn in March 2001, the State party's efforts at the United Nations Commission on Human Rights to establish the mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and its revised and more favourable position on a draft optional protocol to the Covenant.

5. The Committee acknowledges the efforts made by the State party to combat racism and xenophobia, in particular the creation by the Federal Government of the Alliance for Democracy and Tolerance Against Extremism and Xenophobia.

6. The Committee notes with satisfaction that the State party has involved the NGO forum World Forum for Social Development in the preparation of its report, in accordance with the Committee's recommendation in 1998 (E/C.12/1/Add.29, para. 39).

7. The Committee also notes with appreciation that the State party is committed to international cooperation and the provision of development aid, in both bilateral and multilateral frameworks, to combat poverty and promote economic, social and cultural rights.

8. The Committee warmly welcomes the creation of the Parliamentary Committee on Human Rights and Humanitarian Affairs in 2000 and the German National Human Rights Institute (DIMR) in 2001.

9. The Committee acknowledges with appreciation the efforts made by the State party towards the elimination of disparities in living conditions between old and new Länder since reunification in 1990.

10. The Committee welcomes the revision of the State party's legislation and policy on naturalization, which now facilitates the acquisition of German citizenship.

11. The Committee recognizes the progress achieved by the State party against commercial sexual exploitation, in particular of minors.

C. Principal subjects of concern

12. While welcoming the recent establishment of the DIMR, the Committee notes that the Institute's functions appear to be limited to research, education and the provision of policy advice, and that it does not enjoy the powers often associated with national human rights institutions, such as the power to investigate complaints, conduct national inquiries and formulate recommendations for employers and other actors. In the context of the Covenant, these limitations are especially regrettable because economic, social and cultural rights receive less attention and enjoy fewer safeguards than civil and political rights in the State party.

13. The Committee reiterates its concern about the lack of any court decisions in which reference is made to the Covenant and its provisions, as indicated by the statement made by the State party in its written replies to the list of issues and as confirmed by the delegation during its dialogue with the Committee. The Committee is concerned that judges are not provided with adequate training on human rights, in particular on the rights guaranteed in the Covenant. A similar lack of human rights training is discerned among prosecutors and other actors responsible for the implementation of the Covenant.

14. The Committee expresses its concern that there is no comprehensive and consistent system in place that ensures that the Covenant is taken into account in the formulation and implementation of all legislation and policies concerning economic, social and cultural rights.

15. The Committee regrets that, according to UNDP, the State party devoted 0.26 per cent of its GNP to official development assistance (ODA) in 1998, well below the goal of 0.7 per cent set by the United Nations.

16. The Committee is concerned about the considerable length of time taken to process applications for asylum, resulting in the limitation of the enjoyment of the economic, social and cultural rights enshrined in the Covenant by asylum-seekers and their dependents.

17. The Committee is concerned that, despite the great efforts made by the State party to narrow the gap between the new and the old Länder, considerable differences continue to exist, particularly in terms of generally lower standards of living, a higher unemployment rate, and lower wages for civil servants in the new Länder.

18. The Committee expresses its concern about the high levels of unemployment that continue to persist in the State party, especially among the youth. The problem of youth unemployment is particularly grave in the new Länder, resulting in the migration of young persons to the old Länder. The Committee is further concerned that vocational training programmes for the youth are not adequately adapted to their needs.

19. Like the ILO, the Committee is concerned about the persisting impediments to women in German society, in terms of promotion in employment and equal wages for work of equal value, both in the private and public sectors, and especially in federal bodies and academic institutions, despite the efforts of the State party to give a new impetus to the equal participation of women in the labour market.

20. The Committee is concerned that the State party has not adequately addressed the issue of illegal workers who are employed in the "shadow economy", such as workers in households, hotel and catering industries, agriculture and the cleaning and building industries, who do not enjoy any rights or protection and do not get paid regularly or adequately.

21. The Committee is concerned that prisoners who undertake labour for private companies may be doing so without having expressed their prior consent.

22. The Committee reiterates its concern, in line with the Human Rights Committee and the ILO Committee of Experts, that the prohibition by the State party of strikes by public servants

other than public officials who do not provide essential services, such as judges, so-called Beamte and teachers, constitutes a restriction of the activities of trade unions that is beyond the scope of article 8 (2) of the Covenant. The Committee disagrees with the State party's statement that "a strike would be incompatible with this duty of loyalty and would run counter to the purpose of a professional civil service" (E/C.12/4/Add.3, para. 82), as this interpretation of "the administration of the State" mentioned in article 8 (2) of the Covenant exceeds the more restrictive interpretations by the Committee, the ILO (Convention No. 98) and the European Court of Justice.

23. The Committee is concerned that the State party's reformed social security, and the pension system under reform, do not take sufficiently into consideration the needs of families, women, elderly persons and the more disadvantaged groups in society. The Committee notes that the pension reform is currently still in progress, but that the Federal Constitutional Court recently referred to potential discrimination against families under the scheme as envisaged.

24. The Committee expresses its grave concern about inhumane conditions in nursing homes owing to structural deficiencies in nursing, as confirmed by the Medical Service of the national associations of health insurances (MDS).

25. The Committee is concerned that the victims of trafficking in persons, and in particular women, are doubly victimized, owing to a lack of sensitization of police, judges and public prosecutors, a lack of appropriate care for victims, and the risks and dangers awaiting them upon deportation to their home countries.

26. The Committee is concerned about the shortage of child day care institutions, which constitutes an obstacle to women's equal participation in the labour market, as well as to the State party's efforts to promote gender equality.

27. The Committee reiterates its concern that the State party has not yet established a definition of poverty, nor a poverty threshold. The Committee is particularly concerned about the fact that social assistance provided to the poor and socially excluded - such as single parents, students and disabled pensioners - under the Federal Social Assistance Act is not commensurate with an adequate standard of living.

28. The Committee reiterates its concern about the rising number and plight of homeless persons in Germany, as mentioned in the Committee's concluding observations of 1998.

29. The Committee is concerned that several Länder have abandoned the principle of free higher education by requiring the payment of fees, which in some cases are allocated to cover administrative costs of the Länder, and not university expenditure.

E. Suggestions and recommendations

30. Given the limited functions and powers of the DIMR, the Committee recommends that the State party take steps either to extend the Institute's functions and powers, or to establish a separate national human rights institution with broad functions and powers, such as those indicated in paragraph 12. In the meantime, the Committee recommends that the DIMR,

consistent with its existing functions and powers: devote the same attention to economic, social and cultural rights as to civil and political rights; organize programmes to raise awareness of economic, social and cultural rights, especially among public officials, lawyers and the judiciary; give particular attention to the relationship between human rights and international cooperation; and be responsible for preparing a comprehensive plan of action, as called for in Part II, paragraph 71, of the Vienna Declaration and Programme of Action.

31. The Committee encourages the State party, as a member of international financial institutions, in particular the International Monetary Fund and the World Bank, to do all it can to ensure that the policies and decisions of those organizations are in conformity with the obligations of States parties to the Covenant, in particular the obligations contained in articles 2 (1), 11, 15, 22 and 23 concerning international assistance and cooperation.

32. The Committee suggests that the State party review and strengthen its institutional arrangements within the public administration, to ensure that its obligations under the Covenant are taken into account at an early stage in the formulation of legislation and policy on issues relating to social welfare and assistance, housing, health and education. The State party is further encouraged to introduce "human rights impact assessments", comparable to environmental impact assessments, to ensure that the provisions of the Covenant are given due attention in all legislative and administrative policy and decision-making processes.

33. The Committee urges the State party to ensure that its percentage of GNP devoted to ODA rises steadily towards the United Nations goal of 0.7 per cent.

34. The Committee recommends that the State party address more expeditiously applications for asylum in order to avoid limiting applicants' enjoyment of their economic, social and cultural rights.

35. The Committee encourages the State party to continue undertaking measures to ensure that the differences between new and old Länder in terms of standard of living, employment and wages for civil servants are decreased.

36. The Committee recommends that the State party take immediate necessary measures to continue to address the high level of unemployment, especially among the youth and in particular in the Länder faced with higher levels of unemployment. The Committee also recommends that the State party provide incentives for young persons to stay and work in their own regions.

37. The Committee recommends that the State party continue to undertake necessary measures, including legislative and administrative ones, to ensure that women enjoy full and equal participation in the labour market, particularly in terms of promotion and equal wages for work of equal value.

38. The Committee strongly recommends that the State party take the necessary legislative and administrative measures to oblige employers to respect labour legislation and to declare the persons they employ, in order to reduce the number of illegal workers who do not enjoy the minimum protection of their rights to social security and health care.

39. The Committee recommends that the State party undertake measures to ensure that prisoners working for private companies do so after having expressed their prior consent.

40. The Committee reiterates its recommendation to the State party that it ensure that civil servants who do not provide essential services have the right to strike, in accordance with article 8 of the Covenant.

41. The Committee urges the State party to ensure that the reformed social security system, and the pension system under reform, take into account the situation and needs of disadvantaged and vulnerable groups in society. In particular, the Committee strongly urges the State party to address the problems and deficiencies emerging in the implementation of the long-term insurance scheme. The Committee requests the State party to provide detailed information on the results of the implementation of the reformed pension scheme in its next periodic report.

42. The Committee also urges the State party to adopt urgent measures to improve the situation of patients in nursing homes.

43. The Committee strongly recommends that the State party undertake training programmes for those dealing with victims of trafficking in persons to ensure that they are sensitized to the needs of the victims, to provide better protection and appropriate care, and to ensure that victims can claim redress before courts of law.

44. The Committee recommends that the State party increase the availability of child day care institutions, especially in the western Länder.

45. The Committee urges the State party to establish a poverty threshold for its territory, taking into account the parameters used in the State party's first poverty and prosperity report, as well as international definitions of poverty, including the one adopted in the Committee's statement on poverty. In particular, the Committee urges the State party to ensure that social assistance provided under the Federal Social Assistance Act is commensurate with an adequate standard of living.

46. The Committee also urges the State party to take effective measures, and to devise programmes, to examine the extent and causes of homelessness in Germany and to ensure an adequate standard of living for the homeless.

47. The Committee recommends that the State party's Federal Government introduce a reduction of tuition fees in the national framework legislation regulating higher education, with a view to abolishing them. The Committee requests the State party to provide detailed and updated information and comparative statistical data on the quality of tertiary education, such as class sizes, in its next periodic report. The Committee also requests the State party to provide up-to-date information in its next periodic report on the extent of human rights education in the German education system.

48. The Committee requests the State party to disseminate its concluding observations widely among all levels of society and to inform the Committee of all steps taken to implement them in its next periodic report. It also encourages the State party to continue to involve non-governmental organizations and other members of civil society in the preparation of its next periodic report.

49. Finally, the Committee requests the State party to submit its fifth periodic report by 30 June 2006, and to include in this report detailed information on the steps it has undertaken to implement the recommendations contained in the present concluding observations.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

ISRAEL

1. At its 39th meeting, held on 17 August 2001, the Committee considered the additional information (E/1989/5/Add.14) submitted by the State party in response to the request made by the Committee in its concluding observations (E/C.12/1/Add.27, para. 32) adopted at its nineteenth session in 1998 with respect to the initial report of Israel on the implementation of the Covenant (E/1990/5/Add.39) and adopted, at its 47th meeting, held on 23 August 2001, the following concluding observations.

2. In paragraph 32 of its concluding observations on the initial report of Israel, the Committee requested the State party "to provide additional information on the realization of economic, social and cultural rights in the occupied territories, in order to complete the State party's initial report and thereby ensure full compliance with its reporting obligations". The Committee requested that the additional information be submitted in time for its twenty-fourth session in November/December 2000.

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3. In a note verbale dated 3 November 2000, the Permanent Mission of Israel to the United Nations Office at Geneva informed the Committee that the additional information would be included in the State party's second periodic report, which the State party planned to submit no later than March 2001.

4. In a letter dated 1 December 2000 to the Permanent Representative of Israel (E/2001/22-E/C.12/2000/21, annex X), the Chairperson of the Committee reminded the State party that the Committee had called for the additional information to be submitted in time for the twenty-fourth session and emphasized that some of the additional information concerning the occupied territories had been requested "in order to complete the State party's initial report and thereby ensure full compliance with its reporting obligations". Since the additional information formed part of the State party's initial report, it should be submitted, and would be considered, separately from the State party's second periodic report.

5. The Chairperson urged the State party to submit by 1 March 2001 up-to-date information on the realization of economic, social and cultural rights in the occupied territories, giving particular attention to the issues that were identified in the concluding observations, as well as those mentioned in the letter. The Committee scheduled its consideration of the additional information for the afternoon of 4 May 2001 and invited the State party to participate in the discussion.

6. The additional information was received on 20 April 2001, too late for it to be translated into the working languages of the Committee, as required by rule 24 of its rules of procedure, for the twenty-fifth session. Consequently, the consideration of the additional information had to be postponed again to the Committee's extraordinary session in August 2001. The State party was informed of the deferral in a letter dated 11 May 2001.

7. At its twenty-fifth session, the Committee invoked rule 64 of its rules of procedure, which provides that the Committee may make suggestions and recommendations of a general nature on the basis of its consideration of reports submitted by States parties and reports submitted by specialized agencies, in order to assist the Economic and Social Council to take action in pursuance of articles 21 and 22 of the Covenant. Accordingly, the Chairperson addressed a letter (E/2001/77) dated 11 May 2001 to the President of the Council, enclosing a copy of a letter of the same date addressed to the State party citing alleged violations of the Covenant which had been brought to the Committee's attention.

8. In a note verbale dated 14 August 2001, the Permanent Mission of Israel to the United Nations Office at Geneva informed the Committee that owing to complications concerning preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance scheduled to take place in Durban, South Africa, the delegation of the State party would be unable to travel to Geneva to attend the Committee's extraordinary session. The State party also informed the Committee that it had submitted its second periodic report and requested that the additional information previously submitted to the Committee be considered together with the second periodic report at a future session of the Committee.

9. At its 39th meeting, on 17 August 2001, a representative of the Government of Israel read a statement before the Committee, but declined to participate in the consideration of the additional information that was scheduled for that meeting. The Committee therefore decided to proceed with the consideration of the additional information in accordance with the decision taken at its twenty-fifth session.

10. The Committee noted that the additional information submitted by the State party did not include information on the realization of economic, social and cultural rights in the occupied territories, except in relation to East Jerusalem. In the absence of such information in relation to the other occupied territories, and in accordance with its procedure concerning reports that had not been submitted or were overdue, which the Committee had begun to apply at its ninth session, the Committee proceeded to discuss the situation in the occupied territories. This would complete the consideration of the State party's initial report.

11. The Committee deplores the State party's refusal to report on the occupied territories and the State party's position that the Covenant does not apply to "areas that are not subject to its sovereign territory and jurisdiction". The Committee's views on this issue have already been firmly expressed in its previous concluding observations (E/C.12/1/Add.27). The Committee notes the statement of the State party in paragraph 5 of the additional information it submitted to the Committee, that powers and responsibilities "continue to be exercised by Israel in the West Bank and Gaza Strip" according to agreements reached with the Palestinians.

12. The Committee rejects the State party's assertion regarding the distinction between human rights and humanitarian law under international law to support its argument that the Committee's mandate "cannot relate to events in the Gaza Strip and West Bank". The Committee reminds the State party that even during armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights as part of the minimum standards of human rights are guaranteed under customary international law and are also prescribed by international humanitarian law.

13. The Committee expresses its deep concern about the State party's continuing gross violations of economic, social and cultural rights in the occupied territories, especially the severe measures adopted by the State party to restrict the movement of civilians between points within and outside the occupied territories, severing their access to food, water, health care, education and work. The Committee is particularly concerned that on frequent occasions, the State party's closure policy has prevented civilians from reaching medical services and that emergency situations have ended at times in death at checkpoints. The Committee is alarmed over reports that the Israeli security forces have turned back supply missions of the International Committee of the Red Cross and the United Nations Relief and Works Agency for Palestine Refugees in the Near East attempting to deliver food, water and medical relief to affected areas.

14. The Committee continues to be concerned that the State party's Law of Return denies indigenous Palestinian refugees the right to return to their homes and properties.

15. The Committee urges the State party to exercise its powers and responsibilities to put an end to the violence, the loss of human lives and the restrictions imposed on the movement of

civilians between points within and outside the occupied territories. In this regard, the Committee urges the State party to implement without delay its obligations under the Covenant and to desist from decisions and measures resulting in violations of the economic, social and cultural rights of the population living in the occupied territories. The Committee expresses its firm conviction that the implementation of the International Covenant on Economic, Social and Cultural Rights can play a vital role in procuring a lasting peace in Israel and Palestine.

16. The Committee reiterates its request that the State party provide information on the realization of economic, social and cultural rights in all occupied territories. This information should be submitted in time for it to be considered together with the State party's second periodic report, which is tentatively schedule for the thirtieth session of the Committee in April/May 2003. The rest of the information already submitted will be considered together with the second periodic report.